

JOSEPH P. RUSSONIELLO (CASBN 44332)
United States Attorney

BRIAN J. STRETCH (CASBN 163973)
Chief, Criminal Division

JEFFREY B. SCHENK (CASBN 234355)
Assistant United States Attorney

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-2695
Facsimile: (408) 535-5066
jeffrey.b.schenk@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAX BUDZIAK,

Defendant.

No. CR 08-00284-RMW

DECLARATION OF FBI SUPERVISORY
SPECIAL AGENT JACQUELINE
DOUGHER ON FEBRUARY 24, 2009

//

//

//

Declaration - FBI SSA Dougher 2/24/09

**GOVERNMENT
EXHIBIT**

CASE
NO. EP11CR2728KC

EXHIBIT
NO. D (MTC)

Statement of
Supervisory Special Agent Jacqueline Dougher
Of the Federal Bureau of Investigation

February 24, 2009

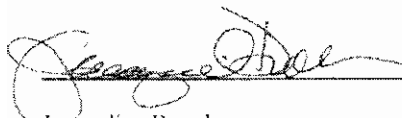
I, Jacqueline Dougher, do solemnly state:

1. I am a Supervisory Special Agent of the Federal Bureau of Investigation (FBI). I have been a Special Agent for approximately eleven years and am currently assigned to the Innocent Images Unit at the Calverton Residence Agency of the FBI. Part of my assigned responsibilities involve the program oversight of agents investigating violations of federal child exploitation laws, including Title 18, United States Code, Section 2423, crimes relating to the transportation of minors and travel in order to sexually exploit minors, and Sections 2252 and 2252A, and crimes relating to the possession and trafficking of images of child pornography. I have gained experience in the conduct of such investigations through training seminars, classes, and everyday work related to conducting these types of investigations. I have taught at Crimes Against Children trainings sponsored by the FBI.
2. I am the program manager for the use of the eP2P program. In this role, I am responsible for teaching law enforcement officers how to utilize this investigative tool, the investigative use of the eP2P program, the continued development of the software, and the dissemination of the program throughout the FBI and other law enforcement agencies.
3. The software program, that has come to be known as eP2P, is specialized software developed by the FBI for the investigation of illegal distributions

through the use of peer-to-peer software that provides for file sharing among participants. The eP2P software was developed and implemented as an easy to use peer-to-peer tool for field investigations based on already existing peer-to-peer client freeware. The eP2P software only provides capabilities already present in the peer-to-peer freeware. The eP2P program provides investigators a simple user interface that limits collection of files to a single IP address.

Therefore the software is more limited than the original freeware version.

4. The FBI protects the eP2P software with a non-disclosure agreement prohibits law enforcement agencies from disseminating the software. This agreement is accepted by all law enforcement agencies that receive this investigative software. The software is designated a law enforcement sensitive technique.
5. To date the following law enforcement agencies are using the eP2P software:
Internet Crimes Against Children Task Forces and their affiliates, field offices of the FBI, state and local law enforcement agencies, and foreign law enforcement agencies.
6. The FBI protected the source code of the eP2P software from disclosure to even FBI agents and law enforcement officers utilizing the software in investigations by locking the source code. Agents are only able to view the software through the user interface. Agents are not able to go behind this to view the source code of the software to discern how it operates.

 2/24/2009
Jacqueline Dougher February 24, 2009